

Sky Valet, Commercial Aviation Services of Boston, Inc., and C and H Air Corp. and Local 254, Service Employees International Union, AFL-CIO, Petitioner. Case 1-RC-20230

December 18, 1995

DECISION AND ORDER

BY MEMBERS BROWNING, COHEN, AND
TRUESDALE

On December 6, 1994, the Union filed a petition seeking to represent ground service employees who are employed by the Employers' aircraft cleaning services at Logan Airport in Boston, Massachusetts. The Employers asserted that they were directly controlled by Delta Airlines, a common air carrier subject to the jurisdiction of the Railway Labor Act (RLA), and that, therefore, the National Labor Relations Board (Board) lacked jurisdiction under Section 2(2) of the National Labor Relations Act. After a hearing, the Regional Director transferred the proceeding to the Board.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record in the case, the Board finds:

Delta Airlines contracts with Sky Valet, a company that the National Mediation Board (NMB) has previously found to be subject to the Railway Labor Act,¹ with respect to its domestic and international aircraft cleaning and restocking services. Sky Valet has no employees of its own at the Logan site; it contracts the services to Commercial Aviation Services of Boston (CAS) and to C and H Air Corp. CAS performs turn-around cleaning and restocking, and C and H handles aircraft that remain at Logan overnight. Sky Valet and CAS have common and related management and are in the process of consolidating into a single enterprise. C and H Air Corp. has no common link with either Sky Valet or CAS.

The uncontroverted evidence reveals that Delta exercises extensive control over all aspects of the operations of CAS and C and H. Delta provides the Employers with a 63-page *Contractors Guide to Delta Cabin Service*, which covers every major area of operations and provides that "[t]he cleaning of all Delta aircraft must be accomplished by strict adherence to Delta's established specifications and procedures." The *Contractors Guide* provides detailed instructions regarding facilities, security, supervision, employee conduct and appearance, uniforms, drug screening, safety, equipment maintenance and vehicle inspections, and procedures for cleaning, stocking water and liquor, and servicing lavatories. The *Guide* also prescribes forms for quality assurance reports, for service logs, and for

equipment check, warehouse, accident, and billing reports.

It is undisputed that Delta provides both companies with office facilities, most office equipment, vehicles, and warehouse facilities, equipment, and supplies. CAS and C and H crews use Delta radios and Delta frequencies to communicate with each other and with the Delta dispatcher, who provides them with schedule and gate information. Daily work plans are drawn up by either Delta agents or contractors' agents, depending on availability. The contractors provide Delta with a quality assurance report for each flight serviced. Delta flight attendants review each aircraft after servicing and report problems to Delta dispatch, who direct followup service. The contractors make voluminous daily operations reports to Delta and have frequent meetings with Delta supervisors. Delta supervisors bring complaints about employee conduct or appearance to the attention of the contractors.

The contractors are required to take Delta training classes, use Delta training materials and videos for their employees, and to have their employees trained by Delta personnel or by their own personnel who have been certified by Delta.

Section 2(2) of the National Labor Relations Act provides that the term "employer" shall not include "any person subject to the Railway Labor Act." 29 U.S.C. Sec. 152(2). Similarly, Section 2(3) of the Act provides that the term "employee" does not include "any individual employed by an employer subject to the Railway Labor Act." 29 U.S.C. Sec. 152(3). The Railway Labor Act, as amended, applies to rail carriers and to:

every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner or rendition of his service.

45 U.S.C. Sec. 151 First and 181.

The Board requested that the NMB study the record in this case and determine the applicability of the Railway Labor Act to the Employers. The NMB subsequently issued an opinion indicating that, in its view, the Employers are carriers subject to the Railway Labor Act. See *Sky Valet, Commercial Aviation Services of Boston, Inc. and C and H Air Corp.*, 22 NMB No. 59 (May 19, 1995).²

² The NMB uses a two-pronged jurisdictional analysis in cases of this type: (1) whether the work is traditionally performed by employees of air or rail carriers, and (2) whether a common carrier exer-

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¹ *Sky Valet*, 19 NMB 263 (1992); *Sky Valet*, 18 NMB 482 (1991); *Sky Valet*, 17 NMB 250 (1990).

Having considered the facts set forth above in light of the opinion issued by the NMB, we find that the Employers are engaged in interstate air common carriage so as to bring them within the jurisdiction of the

cises direct or indirect ownership or control. The NMB concluded that both prongs of the test had been met.

NMB pursuant to Section 201 of Title II of the Railway Labor Act. Accordingly, we shall dismiss the petition.

ORDER

It is ordered that the petition in Case 1-RC-20230 is dismissed.